

TODD KIM
Assistant Attorney General

EMMA L. HAMILTON
LUTHER L. HAJEK
United States Department of Justice
Environment and Natural Resources Division
999 18th Street
South Terrace, Suite 370
Denver, CO 80202
Tel: (303) 844-1361 / Fax: (303) 844-1350
emma.hamilton@usdoj.gov

Attorneys for Federal Defendant

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
MEDFORD DIVISION

CAHILL RANCHES, INC.,

Plaintiff,

v.

UNITED STATES BUREAU OF LAND
MANAGEMENT,

Defendant

and

OREGON NATURAL DESERT ASS'N,

Intervenor-Defendant

Case No. 1:21-cv-1363-MC

**UNOPPOSED MOTION TO
EXTEND DEADLINE TO
RESPOND TO PLAINTIFF'S
MOTION TO COMPLETE AND/OR
SUPPLEMENT THE
ADMINISTRATIVE RECORD**

On June 2, 2023, Plaintiff Cahill Ranches, Inc. filed a Motion to Complete and/or Supplement the Administrative Record, ECF No. 51 (“Pl.’s Mot.”). Plaintiff filed its motion pursuant to the Parties’ Joint Stipulation to Adopt Briefing Schedule, ECF No. 39, which provides that Plaintiff and Intervenor will file any motions challenging the Administrative Record (“AR”) by June 2, 2023, and that “if a motion concerning the scope of the AR is filed on or before June 2, 2023, the parties propose vacating the above briefing schedule and would file a Joint Status Report with new proposed briefing dates within one week of a ruling resolving any AR motion.” *See* ECF No. 39; *see also* ECF No. 43 (adopting schedule as outlined in the joint stipulation). On June 6, 2023, the Court ordered that responses to Plaintiff’s motion be filed by June 9, 2023, ECF No. 53, and set a telephonic status conference for June 13, 2023, ECF No. 54.

Plaintiff’s motion argues both that: (i) BLM should *complete* the Administrative Record with certain Oregon Department of Fish and Wildlife (“ODFW”) comment documents that Plaintiff believes exist and are missing from the record; and (ii) BLM should *supplement* the record with letters from ODFW that post-date the challenged decision. Federal Defendant opposes the motion but, after reviewing the motion and additional context for the request contained therein, BLM is undertaking an additional search of its records for any ODFW comment documents that may have been inadvertently omitted from the Administrative Record.

Federal Defendant intends to file a response outlining its position on both requests contained in the motion. First, Federal Defendant’s response will oppose supplementing the Administrative Record with post-decisional materials as improper under the narrow, extra-record review exceptions recognized in the Ninth Circuit. *Contra* Pl.’s Mot. 5-7 (arguing in favor of supplementation with post-decisional letters).

Second, Federal Defendant’s response to Plaintiff’s argument that BLM should complete

the Administrative Record with allegedly missing ODFW comment documents will depend in large part upon the results of the additional review of its records that BLM is currently undertaking. BLM is hopeful that this new search will yield results that will resolve or at least narrow the scope of the dispute surrounding Plaintiff's request to complete the record. Indeed, the initiation of this new search already provides Plaintiff some of the relief sought in its motion. *See* Pl.'s Mot. 2 (requesting the Court order BLM to search for additional ODFW comment letters). However, BLM will not be able to complete this search in time to include the results in a responsive brief filed by the current June 9, 2023 deadline. An extension of one week would allow time for BLM to complete its search and for undersigned counsel to prepare a response to Plaintiff's motion that reflects those results.

Thus, Federal Defendant respectfully requests that the Court extend the deadline for filing responses to Plaintiff's motion by one week, until June 16, 2023.¹ Counsel for Federal Defendant has conferred with counsel for Plaintiff and Defendant-Intervenor, and neither party opposes this request.

Respectfully submitted this 6th day of June, 2023.

TODD KIM
Assistant Attorney General
Environment and Natural Resources Division

/s/ Emma L. Hamilton
EMMA HAMILTON, Trial Attorney
LUTHER L. HAJEK, Senior Trial Attorney
U.S. Department of Justice

¹ Should the Court grant this extension request, Federal Defendant also requests a continuation of the status conference currently set for June 13, 2023 until after BLM has completed its additional records search and filed its response.

Environment and Natural Resources Division
Natural Resources Section
999 18th Street
South Terrace, Suite 370
Denver, CO 80202
Tel: (303) 844-1361; (303) 844-1475
Fax: (303) 844-1350
emma.hamilton@usdoj.gov
luke.hajek@usdoj.gov

Attorneys for Federal Defendant